

LOUISIANA BOARD OF ETHICS

DATED: December 11, 2003

OPINION NO: 2002-240

RE: Dr. Denise Charbonnet and Dr. Louise Kaltenbaugh's receipt of payments from New Orleans Public Schools while employed at Southern University at New Orleans

The Board of Ethics (the "Board") pursuant to the authority contained in LSA-R.S. 42:1141, conducted a private investigation concerning information that Dr. Denise Charbonnet and Dr. Louise Kaltenbaugh, while serving as the Dean and Associate Dean of the College of Education, respectively, at Southern University of New Orleans ("SUNO") may have violated Section 1111C(1)(a) of the Code of Governmental Ethics (LSA-R.S. 42:1101 et seq.) (the "Code") by receiving compensation for services provided to the New Orleans Public Schools ("NOPS").

On the basis of information obtained during the investigation, and with the concurrence of Drs. Charbonnet and Kaltenbaugh, the Board now makes the following essential:

I.

FINDINGS OF FACT

1.

Dr. Denise Charbonnet served as SUNO Dean of Education from April 1999 until her termination as Dean on July 31, 2002. She retained her post as a Professor of Education, however, Dr. Charbonnet opted to resign. While Dean, Dr. Charbonnet was responsible for the overall operation of the College of Education.

2.

Dr. Louise Kaltenbaugh served as SUNO Associate Dean of Education from December 1999 until her demotion to a tenured associate professor on August 12, 2002. Dr. Kaltenbaugh, who was supervised by Dr. Charbonnet, was responsible for coordinating student advisement and assisting in the preparation of grant applications for SUNO and the College of Education, among other responsibilities.

3.

New Orleans Public Schools (NOPS), in an effort to increase the number of certified teachers in Orleans Parish, applied for and received a federal grant to establish the Class Size Reduction Program. In return for having their tuition paid at universities offering certification programs, teachers agreed to teach in the Orleans public schools for three years.

4.

Dr. Kaltenbaugh assisted NOPS in writing the grant for the Class Size Reduction Program. The preparation for NOPS' Class Size Reduction grant was not a part of her administrative responsibility at SUNO. NOPS officials requested that she assist them in this endeavor and she did so outside of her forty hour work week at SUNO.

5.

Drs. Kaltenbaugh and Charbonnet assisted NOPS in the on-going reporting requirements after it received the grant and taught training programs for facilitators hired by NOPS.

6.

Drs. Kaltenbaugh and Charbonnet clustered some classes in SUNO's College of Education so that NOPS teachers participating in the Class Size Reduction Program could attend classes. No changes were made to the substantive content or operation of SUNO's 8g "Fast Track" program.

The Fast Track program was an 8g Grant funded by the State Department of Education (Board of Regents) to provide funds for 20 non-certified teachers to become certified in 18 months. NOPS' Class Size Reduction program was a federally funded program to provide K-3 non-certified teachers with academic and classroom management skills needed to ensure that the K-3 children would be able to read on level. At no time did the Class Size Reduction program designate a specific time frame for the completion of certification requirements.

7.

NOPS paid Drs. Kaltenbaugh and Charbonnet \$5,000 each for services rendered prior to December, 2000. Dr. Kaltenbaugh contends that she spent 273 hours ($273 \times \$25.00 = \$6,825.00$) in non-SUNO related work on the grant prior to the end of December, 2000. Dr. Charbonnet contends that she spent 253 such hours ($253 \times \$25.00 = \$6,325.00$). However, the written agreement supporting the payments of \$5,000 each stated that the compensation was for the two to "provide direct services to Fast Track and Class-Size Reduction Teachers to enhance instruction."

8.

Dr. Charbonnet was dismissed as Dean (although retained as a Professor of Education) and Dr. Kaltenbaugh was demoted from her assistant dean position to that of a tenured Associate Professor of Education in response to their receipt of payment from NOPS.

9.

SUNO officials believed that the services provided to NOPS by them personally could have better been performed through the university. When questioned by an administrator in the Spring of 2001 about whether she was receiving payments from NOPS, Dr. Charbonnet responded "no" because payment was made for the past semester. If called to testify, Dr. Charbonnet would state that she believed that the question pertained to payment for the current semester, not the payment of \$5,000 in the past.

10.

If called to testify, Drs. Charbonnet and Kaltenbaugh would testify that they were unaware that the Code of Governmental Ethics applied to their receipt of their payments from NOPS.

II.

APPLICABLE LAW

1.

Section 1111C(1)(a) of the Code of Governmental Ethics provides:

(1) No public servant shall receive any thing of economic value for any service, the subject matter of which:

(a) Is devoted substantially to the responsibilities, programs, or

operations of the agency of the public servant and in which the public servant has participated; . . . R.S. 42:1111C(1)(a).

2.

If Drs. Charbonnet and Kaltenbaugh had received prior written approval from SUNO's chief administrative officer, they would have been entitled to keep their grants pursuant to Section 1123(9)(b) of the Code of Governmental Ethics, which states that the Code does not preclude:

(b) The performance of services for compensation for any person, by faculty or staff members of a public higher education institution, provided the services consist of consulting related to the academic discipline or expertise of said public employee . . . and notwithstanding contrary provisions of R.S. 42:1121, and provided the services have been approved in writing by the chief administrative officer of the public employee's institution in accordance with rules and procedures established by the management board of the institution, which rules and procedures have been approved by the Board of Regents and the Board of Ethics.

III.

OPINION

It is the opinion and conclusion of the Board that Dr. Denise Charbonnet and Dr. Louise Kaltenbaugh violated Section 1111C(1)(a) of the Code of Governmental Ethics when they received compensation from New Orleans Public Schools for services related to the NOPS Class Size Reduction Program. The duties performed by Drs. Charbonnet and Kaltenbaugh for NOPS were too closely related to their responsibilities at SUNO's Department of Education. The similarity of the services is apparent from the description of the services in their agreement with NOPS as well as the common mission between SUNO's

Fast Tract Program and NOPS' Class Size Reduction Program.

In determining an appropriate penalty in this case the Board is mindful that Dr. Charbonnet was dismissed from her position and Dr. Kaltenbaugh was removed from her associate dean position by the university based upon their actions in this matter. Therefore, the Board concludes that a penalty of \$500 each, payable to the State Treasurer, is an appropriate remedy.

IV.

DECREE AND ORDER

For the foregoing reasons:

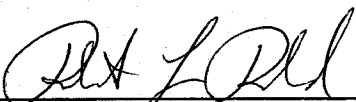
IT IS ORDERED, ADJUDGED AND DECREED that the Board finds as a matter of fact and as a conclusion of law that Dr. Denise Charbonnet violated Section 1111C(1)(a) of the Code of Governmental Ethics by receiving compensation from New Orleans Public Schools for the performance of services too closely related to her responsibilities as Dean of the College of Education for Southern University at New Orleans.

IT IS ORDERED, ADJUDGED AND DECREED that the Board finds as a matter of fact and as a conclusion of law that Dr. Louise Kaltenbaugh violated Section 1111C(1)(a) of the Code of Governmental Ethics by receiving compensation from New Orleans Public Schools for the performance of services too closely related to her responsibilities as Associate Dean of the College of Education for Southern University at New Orleans.

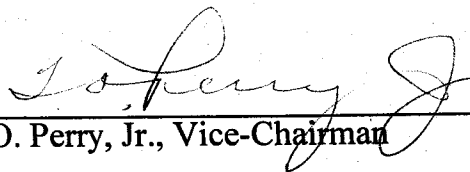
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dr. Denise Charbonnet be ordered to pay to the State Treasurer of Louisiana the sum of \$500 as a penalty in this matter.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dr. Louise Kaltenbaugh be ordered to pay to the State Treasurer of Louisiana the sum of \$500 as a penalty in this matter.

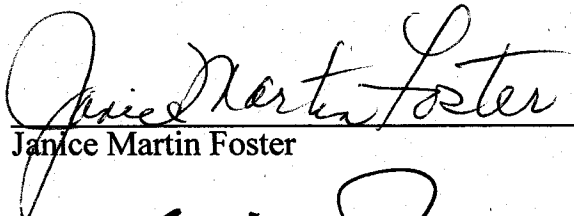
By Order of the Board this 11th day of December 2003.



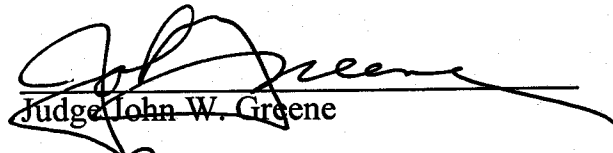
Robert L. Roland, Chairman



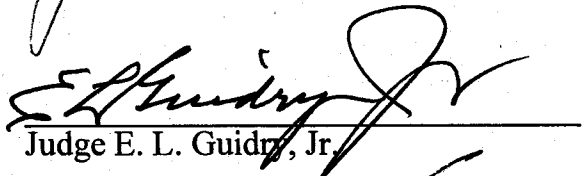
T. O. Perry, Jr., Vice-Chairman



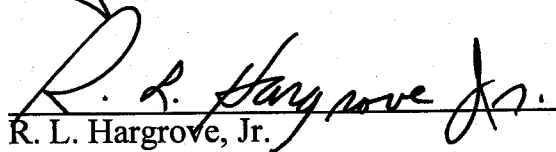
Janice Martin Foster



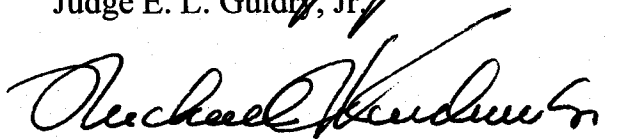
Judge John W. Greene



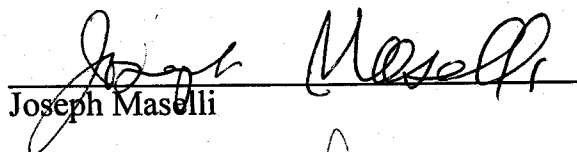
Judge E. L. Guidry, Jr.



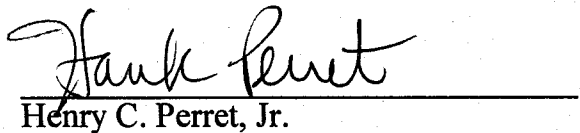
R. L. Hargrove, Jr.



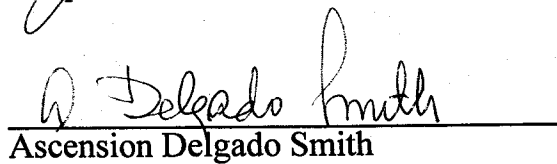
Michael J. Kantrow, Sr.



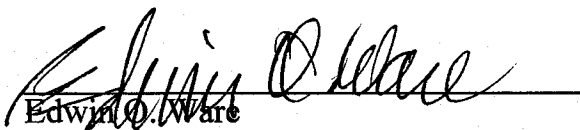
Joseph Maselli



Henry C. Perret, Jr.



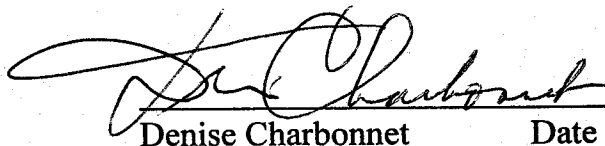
Ascension Delgado Smith



Edwin D. Ware

CONSENT

The undersigned (a) stipulates to the facts found by the Board; (b) waives the procedural requirements contained in Section 1141 of the Code; (c) admits that her conduct, as described above, violated Section 1111C(1)(a) of the Code of Governmental Ethics; (d) consents to the publication of this opinion; (e) agrees to comply with the conditions and orders set forth in this opinion; and (f) agrees not to seek judicial review of the findings and actions taken in this opinion.

 11/21/03
Denise Charbonnet Date

CONSENT

The undersigned (a) stipulates to the facts found by the Board; (b) waives the procedural requirements contained in Section 1141 of the Code; (c) admits that her conduct, as described above, violated Section 1111C(1)(a) of the Code of Governmental Ethics; (d) consents to the publication of this opinion; (e) agrees to comply with the conditions and orders set forth in this opinion; and (f) agrees not to seek judicial review of the findings and actions taken in this opinion.

Louise Kaltenbaugh

Date

CONSENT

The undersigned (a) stipulates to the facts found by the Board; (b) waives the procedural requirements contained in Section 1141 of the Code; (c) admits that her conduct, as described above, violated Section 1111C(1)(a) of the Code of Governmental Ethics; (d) consents to the publication of this opinion; (e) agrees to comply with the conditions and orders set forth in this opinion; and (f) agrees not to seek judicial review of the findings and actions taken in this opinion.

Denise Charbonnet

Date

CONSENT

The undersigned (a) stipulates to the facts found by the Board; (b) waives the procedural requirements contained in Section 1141 of the Code; (c) admits that her conduct, as described above, violated Section 1111C(1)(a) of the Code of Governmental Ethics; (d) consents to the publication of this opinion; (e) agrees to comply with the conditions and orders set forth in this opinion; and (f) agrees not to seek judicial review of the findings and actions taken in this opinion.

Louise Kaltenbaugh
Louise Kaltenbaugh

11/11/03
Date